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SERIAL NUMBER 077848-855	FILING DATE 01/28/91	FIRST NAMED INVENTOR POMPEI	ATTORNEY DOCKET NO. EXS-01A2
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HAMILTON, BROOK, SMITH AND REYNOLDS  
2 MILITIA DRIVE  
LEXINGTON, MA 02173

LACYK, J EXAMINER

ART UNIT 3305	PAPER NUMBER 4
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12/04/91

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 1/28/91 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948.       |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.                 | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/>   |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-10 are pending in the application.

Of the above, claims — are withdrawn from consideration.

2. ☐ Claims — have been cancelled.

3. ☐ Claims — are allowed.

4. ☒ Claims 1-10 are rejected.

5. ☐ Claims — are objected to.

6. ☐ Claims — are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on —. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on —, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed —, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. —; filed on —.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit 335

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-9 are rejected under 35 U.S.C. § 103 as being unpatentable over Fraden in view of Pompei et al.

Fraden discloses a temperature sensor disposed within a "can" or housing in which the housing has a barrel (14) or "guide" having a first internal diameter extending into a rear volume of a larger diameter which houses the sensor. Fraden discloses (column 4 lines 25-27) that thermopiles may be used. The outer surface can be tapered (see Fig. 6) to connect to the larger rear volume. Fraden discloses (column 2, lines 50-54) that the length of the barrel determines the angle of view. Although Fraden doesn't specifically disclose using a lens at the end of the device, Pompei et al discloses a similar radiation detector that uses both the length of the barrel and certain lens

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Art Unit 335


to control the field of view (see Figs. 3 and 7) to the desired angle. Therefore a modification of Fraden to include a lens would have been obvious since this would allow for better control of the angle of the field of view.

Claim 10 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, the outer RC time constant, the inner thermal RC time constant, a cold thermopile junction and the thermal barrier all lack positive antecedent basis.

Any inquiry concerning this communication should be directed to John P. Lacyk at telephone number (703) 308-2995.

  
J.P.Lacyk/pw  
November 08, 1991

  
WILLIAM E. KAMM  
PRIMARY EXAMINER  
ART UNIT 335  
4 Dec 91